THE TAMIL NADU TRANSPARENCY IN TENDERS RULES, 2000

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CHAPTER-I.

PRELIMINARY.

1. **Short title and commencement.-**

(a) These rules may be called the Tamil Nadu Transparency in Tenders Rules, 2000.

(b) They shall come into force on the date 1st October, 2000.

2. **Definitions.-** In these rules, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998);

(b) "supply and installation contract" means a contract under which the tenderer is required to supply, erect, test and commission the equipment at the place specified by the procuring entity;

(c) "fixed rate contract" means a contract where a set of rates and terms and conditions are fixed for the supply of unit quantities of goods or certain standardized services;

(d) "pre-qualification" means the process by which the tenderers are first screened for their capability and resources to implement the contract before they are permitted to offer their tenders;

(e) "two-cover system" means a procedure under which the tenderers are required to simultaneously submit two separate sealed covers, one containing the Earnest Money Deposit and the details of their capability to undertake the tender which will be opened first and the second cover containing the price quotation which will be opened only if the tenderer is found qualified to execute the tender;

(f) "earnest money deposit" means the amount required to be remitted by a tenderer along with his tender indicating his willingness to implement the contract; and

(g) "piece-work contract" and "lump-sum contract" shall have the same meaning as in the Tamil Nadu Public Works Department code.

CHAPTER-II.

GENERAL

3. Categories of procurement.-

(1) For the purposes of the application of these rules, procurement is categorized as follows, namely:-

(i) Construction; and

(ii) Supply of goods and services.

(2) While the provisions of these rules shall apply in general to each of the categories of procurement in sub-rule (1), where a specific provision has been made in the rules regarding any specific category, that specific provision shall prevail as against any general provision in so far as that category of procurement is concerned.

4. Methods of tendering.-

(1) Procurement of different categories shall be effected by the following methods of tendering, namely:-

(i) Piece-work contract;

(ii) Lump-sum contract;

(iii) Turn-key contract;

(iv) Multi-stage contracting including pre-qualification and two cover system; and

(v) Fixed rate contract.

(2) The tender inviting authority shall decide the method of tendering to be followed in each case having regard to the category, size and complexity of the procurement.

(3) While the provisions of these rules shall apply to each of the methods of procurement indicated in sub-rule(1) generally where a specific provision has been made in these rules regarding a particular method of tendering, such specific provision shall prevail as against any general provision in so far as that particular method of tendering is concerned.

CHAPTER III.

PUBLICITY.

5. Publication of tender bulletin:-

(1) The District Tender Bulletin shall be published by the District Bulletin Officer at least once in every week.

(2) The State Tender Bulletin shall be published by the State Tender Bulletin Officer at least once in every week.

(3) The Tender Bulletin Officer shall cause to be published all notices inviting tenders and intimations of acceptance of tenders received upto twenty four hours prior to the actual publication of the bulletin.

(4) In case a notice inviting tender or information relating to acceptance of the tender needs to be published urgently, then the Secretary to Government of the concerned administrative department in the case of the State tender bulletin or the District Collector in the case of the District tender bulletin can for reasons to be recorded in writing, direct the respective tender bulletin officers to publish an extraordinary issue of the tender bulletin.

6. Distribution of tender bulletins.-

(1) The Tender Bulletin Officer shall make the tender bulletin available at any office of a Government department, local authority, statutory board, public sector undertaking, local body, university or cooperative institution.

(2) The Tender Bulletin Officer shall make available adequate copies of the tender bulletin at the office of the Tender Inviting Authority whose notice inviting tenders and intimation of tender acceptance finds place in the bulletin.

(3) Any person or institution can be enrolled as a regular subscriber to the tender bulletin on payment of a fixed fee annually, half-yearly or quarterly, as the case may be.

7. Tender bulletin to contain information only.-

(1) The tender bulletin shall contain only information of the notice inviting tenders and the orders accepting a tender and does not in itself create a legal right or liability.

(2) A notice inviting tender will not be invalidated merely on the grounds that the notice although published in newspapers has not been published in one or the other of the District Tender Bulletins or State Tender Bulletins or when published in the State Tender Bulletin could not be published in a District Tender Bulletin or vice versa.

8. Information to be published in the district tender bulletin:-

Subject to the provisions of rule 10, notices inviting tenders and decisions on tenders in all cases where the value of the procurement exceeds rupees five lakhs or below rupees twenty five lakhs shall be published in the District Tender Bulletin of the district where the headquarters of the Tender Inviting Authority is located and in the district where the work is to be executed or the goods and services supplied.

9. Information to be published in the State tender bulletin:-

The notice inviting tenders and decisions on tenders shall be published in the State Tender Bulletin in cases where.-

(a) the value of procurement exceeds rupees twenty five lakhs;

(b) The Tender Inviting Authority is a Secretary to Government, or a head of a Government department, or Local Authority or the Chief Executive of a Public Sector Undertaking, Statutory Board, Apex Cooperative Institution, University or State Level Society formed by the Government.

(c) In any other case, where the Tender Inviting Authority deems it fit.

10. Details to be mentioned in notice inviting tenders.-

The Notice Inviting Tenders shall contain the following details, namely:-

(a) The name and address of the procuring entity and the designation and address of the Tender Inviting Authority;

(b) Name of the scheme, project or programme for which the procurement is to be effected;

(c) The date upto which and places from where the tender documents can be obtained;

(d) The amount of earnest money deposit payable;

(e) The last date and time for receipt of tenders;

(f) The date, time and place for opening of tenders received; and

(g) Any other information the Tender Inviting Authority considers relevant.

11. Publication of notice inviting tenders in newspapers.-

(1) The Tender Inviting Authority shall have the notice inviting tenders published in the Indian Trade Journal in all cases where the value of procurement exceeds rupees [1]***fifty crores***.

(2) The number, editions and language of the newspapers in which the notices inviting tenders shall be published will be based on the value of procurement.

1 This word substituted for the word " ten crores " by the orders issued in G.O Ms. No. 392, Finance(salaries) Department, Dated 18th August 2009.

(3) In cases where publication of Tender Notices is to be done only in Newspapers with circulation within the District, the Information and Public Relations Officer attached to the District Collectorate shall be the competent authority to release the advertisement and in all other cases the competent authority to release the advertisement shall be the Director of Information and Public Relations, Chennai.

(4) The notice inviting tender shall be given due publicity in Newspapers and also on notice boards in the District Offices. For tenders above rupees fifty lakhs, Director of Information and Public Relations will publish the Notice Inviting Tenders as per instructions of the tendering department. For other tenders, Director of Information and Public Relations will publish keeping in mind the request of the department. There should not be any additional insertion and no publication of Notice Inviting Tenders in newspapers not requested by the tendering departments for tenders above rupees fifty lakhs.

12. <u>Sending notice inviting tenders to all possible tenderers</u>.-

The Tender Inviting Authority may if he considers necessary, send the Notice Inviting Tenders to all possible tenderers including registered contractor, past supplier, any potential supplier and any other well known company or firm directly.

CHAPTER IV.

NOTICE INVITING TENDERS AND TENDER DOCUMENTS.

13. Technical specifications contained in the tender documents.-

(1) The technical specifications contained in the tender documents shall include a detailed description of what is proposed to be procured.

(2) Unbiased technical specifications shall be prepared by observing the following safeguards, namely:-

(a) use of brand names and catalogue numbers shall be avoided and where it becomes unavoidable, along with the brand name the expression "or equivalent" shall be added;

(b) wherever possible the appropriate Indian Standards with the number shall be incorporated;

(c) in the case of construction tenders, detailed estimates shall be prepared by the competent technical authorities based on the schedule of rates and standard data as revised from time to time provided that for large and prestigious projects, the Government shall permit any procuring entity to engage a qualified private architect or consultant to prepare the design and estimates; and

(d) in case alternative designs or materials are permitted, the conditions for their acceptability and the method of their evaluation shall be clearly stated.

14. Commercial conditions.-

(1) The tender documents shall require all tenderers without exception to pay an earnest money deposit ordinarily not exceeding one per cent of the value of the procurement by means of a demand draft, bankers cheque, specified small savings instruments or where the procuring entity deems fit, irrevocable bank guarantee in a prescribed form. The tender documents shall clearly state that any tender submitted without the earnest money deposit in the approved form be summarily rejected provided that any category of tenderers specifically exempted by the Government from the payment of earnest money deposit will not be required to make such a deposit.

(2) The tender documents shall specify the period for which the tenderer should hold the prices offered in the tender valid:

Provided that the initial period of validity shall not be less than ninety days.

(3) The tender documents shall require that as a guarantee of the tenderer's performance of the contract, a security deposit be taken from the successful tenderer subject to the conditions that -

(a) the amount of the deposit not exceeding five per cent of the value of the orders placed: and

(b) the deposit being in the form of demand draft or bankers' cheque or specified small savings instruments or where the procuring entity deems fit, irrevocable bank guarantee in a prescribed form.

(4) The tender documents shall clearly indicate the payment terms conforming to the following requirements.-

[1](a) "Payment shall ordinarily be effected only on completion of delivery against the orders placed.

Provided that payment of advance may be made in the following cases for sufficient reasons to be recorded by the procuring entity:-

(i) in cases where goods, commodities and services are procured through imports requiring opening of Letter of Credit;

(ii) in cases where there is single source of supply only and where the practice of paying advance is already in vogue as a standard practice;

(iii) in cases of purchase during natural calamities and emergencies declared by the Government under clause (a) of section 16 of the Act;

(iv) in cases of purchase of life saving drugs; and

(v) in cases where the standard commercial terms of supply require payment of advance by the procuring entity, such as the machinery and equipment manufacturers for sugar and cement plants".

(b) Mobilization advances may be paid in the case of construction or supply and installation contracts of a large and complex nature, for a value exceeding rupees one crore provided that such mobilization advances shall not ordinarily exceed ten per cent of the value of the contract, shall be secured against irrevocable bank guarantee and shall be recovered in the subsequent bills payable along with interest as per specific terms set in the tender documents provided that in case of mobilisation advances for plant machinery and equipment, they are also hypothecated to the Governor of Tamil Nadu in addition to other requirements;

(c) Percentage of payment to be withheld for the effective performance of the contract, provided that withheld amounts do not exceed ten per cent of the total value of contract;

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[1] This clause was substituted for the expression, "Payment shall ordinarily be effected only on completion of delivery against the orders placed, subject to the exceptions specified in the tender documents". [*G.O.Ms.No.107, Finance (Salaries) Department, Dated 23-3-2004*]

(d) Payment terms for imports shall be based on standard terms of international trade and the payment may be effected through irrevocable letters of credit drawn on banks;

(5) The tender documents shall clearly indicate whether any variations in the commercial terms prescribed in the documents will be permitted and if so to what extent such variations would be considered.

(6) The tender documents and the contract shall include a clause for payment of liquidated damages and penalty payable by the tenderer in the event of non-fulfillment of any or whole of the contract.

(7) The tender documents shall clearly indicate the terms on which the tenderers will be required to quote their price which should be inclusive of all costs of delivery at the final destination such as transportation, payment of duties and taxes leviable, insurance and any incidental services and giving the break up thereof.

[1](7-A)The tender documents shall clearly indicate the criteria for evaluation and comparison of tenders and shall also provide for a price preference of fifteen percent for domestic small scale industrial units and ten percent for the Public Sector Undertakings of the Government in respect of products and quantities manufactured by them.

(8) The tender documents shall include a price adjustment clause to reflect any changes either upward or downward in major cost components such as labour, equipment, material and fuel, based on a prescribed formula in the case of large contracts where the period of execution is likely to exceed eighteen months.

(9) The tender documents shall indicate the quantity proposed to be procured in the tender, and the Tender Accepting Authority shall be ordinarily permitted to vary the quantity finally ordered only to the extent of twenty five percent either way of the requirement indicated in the tender documents.

15. Tender documents to clearly specify evaluation criteria.-

(1) The tender documents shall clearly indicate the criteria in addition to price which are to be adopted for evaluating the tenders and how such criteria will be quantified or evaluated; and

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[1] This sub-rule was inserted by the notification issued in G.O.Ms.No.452, Finance (Salaries) Department, Dated 16-11-2001.

[1] (2) The qualification criteria in terms of the registration of contractors in the cases where the procuring entity has a system of registration of contractors, the required experience, available manufacturing and construction capacity, technical and other manpower and financial status shall be clearly stated in the tender documents.

16. Supply of tender documents.-

(1) The Tender Inviting Authority shall make available the tender documents from the date of publication of the tender.

[2] (2) "The Tender Inviting Authority shall ensure that the tender documents are made available to any person who is willing to remit the cost of such documents".

[3] (3) (a) The tender documents shall be made available at:-

(i) the office of the Tender Inviting Authority;

(ii) any other office or place indicated by the procuring entity.

[4] (b) In respect of procurement where the estimated value of procurement is Rupees Twenty Five Lakhs and above in value for construction and Rupees Ten Lakhs and above in value for all other categories of procurement inclusive of consultancies for construction, the tender document shall be made available for downloading free of cost at the website designated for this purpose by the Government. Tender documents may also be made available free of cost at such other web sites as may be indicated by the Tender Inviting Authority."

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1 This clause was substituted for the expression, "The qualification criteria in terms of the required experience, available manufacturing and construction capacity, technical and other manpower and financial status shall be clearly stated in the tender documents." (*G.O.Ms.No.177, Finance (Salaries) Department, dated 22nd May 2007*).

2 This clause was substituted for the expression, "Tender Inviting Authority shall ensure that the tender documents are made available to any person who is willing to remit the cost of the documents provided that in the cases where the procuring entity has a system of registration of contractors, the tender documents will be supplied only to registered contractors in the appropriate class." (*G.O.Ms.No.177, Finance (Salaries) Department, dated 22nd May 2007*)

3 This clause was substituted for the expression, "(3) The tender documents shall be made available at the following offices, namely:-

(i) the office of the Tender Inviting Authority;

(ii) any other office or place indicated by the procuring entity."

(G.O.Ms.No.177, Finance (Salaries) Department, dated 22nd May 2007).

4 This clause was substituted for the expression, "In respect of procurement where the estimate value of procurement is Rupees Ten Lakhs and above, the tender document shall be made available for downloading free of cost at the web site designated for this purpose by the Government. Tender documents may also be made available free of cost at such other web sites as may be indicated by the Tender Inviting Authority"

(G.O.Ms.No.91,Finance (Salaries) Dept, dated 23rd March 2010)

(4) The Tender Inviting Authority shall send by registered post or courier the tender documents to any prospective tenderer who makes a request for the documents on payment of cost along with postal charges at the risk and responsibility of the prospective tenderer.

17. Clarification to tender documents.-

[1] (1) At any time after the issue of the tender documents and before the opening of the tender, the Tender Inviting Authority may make any changes, modifications or amendments to the tender documents and shall send intimation of such change to all those who have purchased the original tender documents and upload corrigendum for the information of those who have downloaded the tender documents from the website.

[2] (2) In case any one tenderer asks for a clarification to the tender documents before 48 hours of the opening of the Tender, the Tender Inviting Authority shall ensure that a reply is sent and copies of the reply to the clarification sought shall be communicated to all those who have purchased the tender documents without identifying the source of the query and upload such clarification to the designated website for the information of those who have downloaded the tender documents from the website, without identifying the source of the query .

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[1]This clause was substituted for the expression, "At any time after the issue of the tender documents and before the opening of the tender, the Tender Inviting Authority may make any changes, modifications or amendments to the tender documents and shall send intimation of such change to all those who have purchased the original tender documents."

(*G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007*).

[2] This clause was substituted for the expression, "In case any one tenderer asks for a clarification to the tender documents before 48 hours of the opening of the Tender, the Tender Inviting Authority shall ensure that a reply is sent and copies of the reply to the clarification sought will be communicated to all those who have purchased the tender documents without identifying the source of the query."

(*G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007*).

CHAPTER-V.

RECEIPT OF TENDERS AND TENDER OPENING.

18. Place and time for receipt of tenders.-

[1](1) The Tender Inviting Authority shall ensure that adequate arrangements are made for the proper receipt and safe custody of the tenders at the place indicated for the receipt of tenders. Such of the tenders that are received through electronic mail shall be kept electronically locked.

(2) The Tender Inviting Authority shall take all measures to ensure that no intending tenderer is hindered in submitting his tender.

[2](3) The Tender Inviting Authority shall permit the submission of tenders by post or courier or by electronic submission through the designated website, wherever applicable, provided that the Tender Inviting Authority shall not be responsible for any delay in transit in such cases".;

[3](4) The Tender Inviting Authority shall not accept any tenders submitted by facsimile (fax)

[4](5) The Tender Inviting Authority may extend the last date and time for receiving tenders "which shall be published on the designated website also" after giving adequate notice to all intending tenderers in cases where: -

(a) the publication of the tender notice has been delayed;

(b) the communication of changes, in the tender documents to the prospective tenderers under sub rule (1) of rule 17 took time;

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[1] This clause was substituted for the expression, "The Tender Inviting Authority shall ensure that adequate arrangements are made for the proper receipt and safe custody of the tenders at the place indicated for the receipt of tenders." (G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007).

[2] This clause was substituted for the expression, "The Tender Inviting Authority shall permit the submission of tenders by post or courier, provided that the Tender Inviting Authority shall not be responsible for any delay in transit in such cases." (G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007).

[3] This clause was substituted for the expression, "The Tender Inviting Authority shall not accept any tenders submitted by facsimile (fax) **or by electronic mai**l". (G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007).

[4] This clause was substituted for the expression, "The Tender Inviting Authority may extend the last date and time for receiving tenders after giving adequate notice to all intending tenderers in cases where:-" (G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007).

(c) any of the tenderers requested clarifications communication of which took time to all the tenderers; and

(d) any other reasonable grounds exist, for such extension which shall be recorded in writing by the Tender Inviting Authority.

19. Marking of covers in which the tender is submitted.-

The tenderer shall be responsible for properly superscribing and sealing the cover in which the tender is submitted and the Tender Inviting Authority shall not be responsible for accidental opening of the covers that are not properly superscripted and sealed as required in the tender documents before the time appointed for tender opening.

20. Minimum time for submission of tenders.-

(1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the Notice Inviting Tenders in the relevant Tender Bulletin or in the newspapers whichever is later and the last date for submission of tenders. This minimum period shall be as follows.-

(a) for tenders upto rupees two crores in value, fifteen days; and

(b) for tenders in excess of rupees two crores in value, thirty days.

(2) Any reduction in the time stipulated as per sub-rule (1) has to be specifically authorized by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing.

21. Opening of tenders.-

(1) All the tenders received by the Tender Accepting Authority shall be opened at the time specified in the Notice Inviting Tenders and in cases where an extension of time for the submission of tenders has been given subsequent to the original Notice Inviting Tenders in accordance with sub-rule (5) of Rule 18 at the time so specified subsequently. [1] "The e-submitted tenders may be permitted to be opened by a Tender Inviting Authority or a member of the Tender Scrutiny Committee from their new location if they are transferred after the issue of Notice Inviting Tender and before tender opening and where the new incumbent is yet to obtain his digital signature certified.";

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[1] This clause was added for the expression, "All the tenders received by the Tender Accepting Authority shall be opened at the time specified in the Notice Inviting Tenders and in cases where an extension of time for the submission of tenders has been given subsequent to the original Notice Inviting Tenders in accordance with sub-rule (5) of Rule 18 at the time so specified subsequently." (*G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007*).

(2) The time specified for the opening of tenders shall be immediately after the closing time specified for the receipt of tenders allowing a reasonable period, not exceeding one hour, for the transportation of the tenders received to the place they are to be opened in the presence of the tenderers who choose to be present.

(3)The tenders will be opened in the presence of the tenderers or one representative of the tenderer who chooses to be present.

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22. Procedure to be followed at tender opening.-

The following procedure shall be followed at the tender opening.-

[1](a) All the envelopes containing tenders and the tenders received through the electronic mail in the designated website shall be counted.

(b) All the tenders received in time shall be opened.

[2] (c) Any tender received subsequently shall not be opened and shall be returned unopened to the tenderer and in the case of tenders submitted through electronic mail in the designated website, a report on the late submission of tenders shall be generated and the same shall be sent to the tenderers concerned". ;

(d) On opening the tender, the members of the Tender Scrutiny Committee shall initial the main bid including the prices and any corrections;

(e) A record of the corrections noticed at the time of the bid opening shall be maintained;

(f) The name of the tenderers and the quoted prices should be read out aloud.

(g) the fact whether earnest money deposit has been submitted and other documents required produced may be indicated, but this shall be merely an examination of the documents and not an evaluation;

(h) Minutes of the tender opening shall be recorded. The signatures of the tenderers present shall be obtained unless any of the tenderers or his representative refuses to sign the minutes.

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[1] This clause was substituted for the expression, "All the envelopes received containing tenders shall be counted."
(*G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007*).

[2]This clause was substituted for the expression "Any tender received subsequently shall not be opened and shall be returned unopened to the tenderer."
(*G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007*).

23. Changes and alterations not to be permitted after tender opening.-

No changes, amendments which materially alter the tendered prices shall be permitted after the opening of the tender, except as per the procedure prescribed in sub-section (3) of section 10 of the Act.

24. Tender scrutiny committee.-

(1) A Tender Scrutiny Committee may be constituted to scrutinize the tender documents, supervise opening of tenders, to carry out the preliminary examination and detailed evaluation of the tenders received and to prepare an evaluation report for the consideration of the Tender Accepting Authority.

(2) The constitution of a Tender Scrutiny Committee will be obligatory in all cases where the value of the procurement exceeds limit as may be specified.

CHAPTER-VI.

TENDER EVALUATION.

25. Tender evaluation to be in accordance with evaluation criteria.-

The Tender Accepting Authority shall cause the evaluation of tenders to be carried out strictly in accordance with the evaluation criteria indicated in the tender documents.

26. Time taken for evaluation and extension of tender validity.-

(1) The evaluation of tenders and award of contract shall be completed, as far as may be practicable, within the period for which the tenders are held valid.

(2) The Tender Accepting Authority shall seek extension of the validity of tenders for the completion of evaluation.

(3) In case the evaluation of tenders and award of contract is not completed within extended validity period, all the tenders shall be deemed to have become invalid and fresh tenders may be called for.

27. Process of tender evaluation to be confidential until the award of the contract is notified.-

(1) Subject to the provision of Sections 12 and 13 of the Act, the Tender Inviting Authority shall ensure the confidentiality of the process of tender evaluation until orders on the tenders are passed.

(2) The Tender Accepting Authority shall cause the information on orders passed on the tenders published in the Tender Bulletin.

(3) Tenderers shall not make attempts to establish unsolicited and unauthorised contact with the Tender Accepting authority, Tender Inviting Authority or Tender Scrutiny Committee after the opening of the Tender and prior to the notification of the Award and any attempt by any tenderer to bring to bear extraneous pressures on the Tender Accepting Authority shall be sufficient reason to disqualify the tenderer.

(4) Notwithstanding anything contained in sub-rule (3), the Tender Inviting Authority or the Tender Accepting Authority may seek bonafide clarifications from tenderers relating to the tenders submitted by them during the evaluation of tenders.

28. Initial examination to determine substantial responsiveness.-

(1) The Tender Inviting Authority shall cause an initial examination of the tenders submitted to be carried out in order to determine their substantial responsiveness.

(2) The initial examination shall consider the following factors, namely:-

(a) Whether the tenderer meets the eligibility criteria laid down in the tender documents;

[1](b) (i) whether the crucial documents have been duly signed;

(ii) whether the documents have been authenticated by digital signature, in the case of tenders submitted through electronic mail in the designated website.

(c) Whether the requisite earnest money deposit has been furnished;

(d) Whether the tender is substantially responsive to the technical specifications, commercial conditions set out in the bidding documents including the testing of samples where required.

(3) Tenders which on initial examination are found not to be substantially responsive under any of the clauses under sub-rule (2) may be rejected by the Tender Accepting Authority.

29. Determination of the lowest evaluated price.-

(1) Out of the tenders found to be substantially responsive after the initial examination the tenderers who has bid the lowest evaluated price in accordance with the evaluation criteria or the tenderers scoring the highest on the evaluation criteria specified as the case may be shall be determined.

(2) In determining the lowest evaluated price, the following factors shall be considered, namely:-

(a) the quoted price shall be corrected for arithmetical errors;

(b) in cases of discrepancy between the prices quoted in words and in figures, lower of the two shall be considered;

(c) adjustments to the price quoted shall be made for deviations in the commercial conditions such as the delivery schedules and minor variations in the payment terms which are quantifiable but deemed to be non-material in the context of the particular tender;

[2] (d) "the evaluation shall include all central duties such as customs duty and central excise duty and sales tax as a part of the price, as detailed below: -

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[1] This clause was added as per the orders issued in G.O.Ms.No.471, Finance (Salaries) Department, dated 30th September 2007.

[2] This clause was substituted for the expression, "the evaluation shall include all central duties such as customs duty and central excise duty as a part of the price, but shall exclude sales tax if the bidders are from other States and Tamil Nadu;". [G.O.Ms.No.412, Finance (Salaries) Department, Dated 09-10-2003

(i) in evaluation of the price of an imported item, the price has to be determined inclusive of the customs duty;

(ii) in evaluation of the price of articles which are subject to excise duty, the price has to be determined inclusive of such excise duty;

(iii) in a tender where all the tenderers are from within the State of Tamil Nadu, or where all the tenderers are from outside the State of Tamil Nadu, the sales tax shall be included for the evaluation of the price; and

(iv) In a tender where the tenderers are both from the State of Tamil Nadu as well as from outside the State of Tamil Nadu, **the sales tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of (1959)** [1] shall be excluded for the evaluation of the price".

(e) in the case of purchase of equipment, the operation and maintenance and spare part costs for appropriate periods as may be specified in bid documents may be quantified, where practicable and considered.

[2] (f) the evaluation and comparison shall include fifteen percent price preference for domestic small scale industrial units and ten percent price preference for the Public Sector Undertakings of the Government in respect of products and quantities manufactured by them.

(3) In order to secure the best possible procurement price, negotiations with tenderer determined as per clauses (1) and (2) above are permissible subject to provisions in section 10 of the Act.

30. <u>Preparation of evaluation report and award of tenders</u>:-

(1) The Tender Scrutiny Committee or the officer evaluating the tender shall prepare detailed evaluation report which shall be considered by the Tender Accepting Authority before taking a final decision on the tender.

(2) The evaluation report shall be prepared in the standardized format as may be prescribed.

(3) As soon as the tenderer qualified to perform the contract is identified, in accordance with section 10(6) of the Act, the Tender Accepting Authority shall pass orders accepting the tender and communicate the order of acceptance to the successful tenderer. The Tender Accepting Authority will also send to the Tender Bulletin Officer a statement of evaluation of the tenders with a comparative statement of tenders received and decision thereon for publication in the Tender Bulletin.

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[1] The expression was substituted for the expression, "sales tax" by the notification issued in G.O.Ms.No.17, Finance (Salaries) Department, Dated 17.01.2005.

[2] This clause was added by the notification issued in G.O.Ms.No.452 Finance (Salaries) Department, Dated 16-11-2001.

(4) Within such reasonable time as may be indicated in the tender documents, the tenderer whose tender has been accepted will be required to execute the contract agreement in the prescribed format.

(5) In case the successful tenderer fails to execute necessary agreements as prescribed within the period specified, then his Earnest Money Deposit shall be forfeited and his tender held as non-responsive.

CHAPTER-VII.

EVALUATION AND AWARD OF TENDERS IN SPECIAL CASES.

31. Procurement in special cases.-

In the case of purchase of goods where the quantity offered at the lowest price is less than the total quantity required, the Tender Accepting Authority may, after placing orders with the lowest evaluated tenderer for the entire quantity offered by such tenderer subject to his ability to supply, adopt either or both of the following procedures to procure the balance quantity.-

(1) Negotiate with the next lowest tenderers in strict ascending order of evaluated price and require them to match the price offered by the lowest evaluated tenderer and place orders until the entire quantity required is ordered; or

(2) Require all the other eligible tenderers who participated in the tender and offered a price higher than that offered by the lowest evaluated tenderer, to submit sealed offers of the quantity they would be willing to supply at the price quoted by the lowest evaluated tenderer, and thereafter place orders for the remaining required quantity with all those who match the lowest evaluated price such that those who bid lower prices in the original tender get a higher priority for supply.

(3) In case the bidders other than the lowest evaluated bidder fail to agree to accept the lowest price or the total quantity offered by them at the price quoted by the tenderer with lowest evaluated price is less than the required quantity the Tender Accepting Authority may place orders for remaining required quantity at different rates with different suppliers in the ascending order of evaluated price until the entire quantity required is covered:

Provided that, where different quantities have to be procured at more than one price from one or more tenderers, the Tender Accepting Authority may decide not to procure beyond a price considered economical although the entire quantity originally stated to be required in the tender documents is not ordered.

(4) In cases where, the Tender Accepting Authority such as Tamil Nadu Electricity Board, Tamil Nadu Civil Supplies Corporation, Project Director, Integrated Child Development Scheme (ICDS) [1]and **Tamil Nadu State Transport Corporations** is of the view that the commodity to be purchased is so vital in nature and the failure in supply would affect the public interest and that it is necessary to have more than one supplier, the Authority may place orders on the tenderer quoting the lowest evaluated price for not less than 60% of the quantity covered in the tender at the price quoted by him and place orders for the remaining quantity on the tenderers quoting the next lowest evaluated prices at the lowest evaluated price and shall specify this in the tender documents.

[2]"Provided that the commodity to be purchased by the Tamil Nadu State Transport Corporations shall be restricted to bus chassis only".

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[1] This expression was inserted by the notification issued in G.O.Ms.No.107,Finance (Salaries) Department, Dated 23-03-2002.

[2] This proviso was added by the notification issued in G.O.Ms.No.286, Finance (Salaries) Department, Dated 13-08-2002.

32. Pre-qualification procedure.-

(1) The Tender Inviting Authority shall for reasons to be recorded in writing provide for pre-qualification of tenderers on the basis of,-

(a) experience and past performance in the execution of similar contracts;

(b) capabilities of the tenderer with respect to personnel, equipment and construction or manufacturing facilities;

(c) financial status and capacity

(2) Only the bids of pre-qualified bidders shall be considered for evaluation.

33. Low value procurement.-

For the purposes of clause (d) of section 16 of the Act, "low value procurement" means any procurement, which is less than rupees [1] **twenty five lakhs in value for construction and which is less than rupees ten lakhs in value for all other categories of procurement inclusive of consultancies for construction.**

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1 The word "two" was substituted by the word "five" by the notification issued in G.O.Ms.No.452, Finance (Salaries) Department, Dated 16-11-2001.Subsequently the words in bold were substituted for the word "five lakhs in value" by the notification issued in G.O Ms.No.392, Finance (Salaries) Department, dated 18th August 2009.

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GOVERNMENT OF
TAMIL NADU
2000

FINANCE (SALARIES) DEPARTMENT

G.O.Ms.No.446, DATED 26th September, 2000
(Vikkirama, Purattasi-11, Thiruvalluvar Aandu 2031)

Rules - Tamil Nadu Transparency in Tenders Rules, 2000 - Framing of the Rules - Notified.

ORDER:

The following Notification will be published in the *Tamil Nadu Government Gazette*, Extraordinary dated the 1st October, 2000.

NOTIFICATION.

In exercise of the powers conferred by sub-section(1) of section 22 of the Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998), the Governor of Tamil Nadu hereby makes the following Rules:-

RULES

(BY ORDER OF THE GOVERNOR)

P.V. RAJARAMAN,
SECRETARY TO GOVERNMENT.

To
The Works Manager, Government Central Press, Chennai-79.
(for the publication of the notification and send 200 copies to Government)
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SECTION OFFICER.